

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.4752 OF 2022

Rohini d/o Laxman Akulwar

... PETITIONER

VERSUS

1. The State of Maharashtra,
through its Secretary,
Tribal Development Department,
Mantralaya, Mumbai
2. The Scheduled Tribe Certificate
Verification Committee Kinwat, Dist. Nanded
Head Office Aurangabad,
through its Dy. Director (R)
Aurangabad.
3. The Sub-Divisional Officer,
Degloor, Tq. Degloor, Dist. Nanded
4. The Principal
Shri Chatrapati Shivaji Junior College,
Markhel, Tq. Deglur, Dist. Nanded

... RESPONDENTS

Advocate for Petitioner : Mr. Kedar Balbhim R.
A.G.P. for respondents/State : Mr. P.S. Patil

**CORAM : MANGESH S. PATIL &
SHAILESH P. BRAHME, J.J.**

DATE : 09.08.2023

ORDER (MANGESH S. PATIL, J.) :

Heard both the sides finally at the stage of admission. In view of the urgency inasmuch as the petitioner is seeking to take admission in the current admission process through NEET-UG-2023.

2. Though the Committee has resorted to take exception to the validity certificates possessed by the petitioner's several blood relations,

admittedly, these validity certificates have not been confiscated and cancelled under the Maharashtra Scheduled Castes, Scheduled Tribes, Denotified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of Issuance and Verification of) Caste Certificate Act, 2000. Till that time those would hold good and the petitioner apparently can place reliance upon them.

3. Pertinently, in the matter of **Rohan Laxman Akulwar Vs. The State of Maharashtra and others**; in Writ Petition No.9009/2019 decided on 20.08.2019 the principal bench Bombay High Court had granted him conditional validity, however, till date the Committee has not been able to take the matter to the logical end.

4. As far as the observations of the alleged concealment and fraud are concerned, the Committee has expressed its intention to undertake a reverification/review. We do not intend to comment on the powers of the Committee to undertake such review or reopen the inquiries. Even if it has such a power, we do not intend to make any observations touching the circumstances which according to the Committee constitute fraud for two reasons. Since it is an issue which is directly and substantially under consideration of the Scrutiny Committee we cannot make any observation which could have some bearing on that inquiry. Secondly, the validity holders are not before us, therefore, we also do not intend to cause any prejudice to them by making certain observations by touching the alleged fraud. We leave it at that.

5. One of the grounds for the committee not to rely upon the validity certificates is that there was first invalidation of petitioner's cousin grandfather Balaji Baganna Akulwar of the year 1995 and the fact was not disclosed by the subsequent validity holders in their respective matters.

6. Assuming for the sake of argument that it is a matter of concealment of an earlier invalidation, we cannot comprehend as to how that fact could have a bearing on the subsequent claims. Such invalidation order would operate *in personam* and would only govern the petitioner therein namely Balaji Baganna Akulwar. That decision cannot bind the other blood relations since they were not party to that inquiry. Independently, if the other blood relations are able to succeed in convincing the Committees by leading cogent evidence regarding their tribe claim, merely because there is a previous invalidation in the family the subsequent claimants cannot be denied a validity certificate. It would all be about proof.

7. The committee has questioned even the composition of the Committee which decided the matter of one of the validity holders observing that one of the three members of the Committee was not competent be a member of that Committee. In our considered view it would not lie in the mouth of the Committee to question the composition of the then Committee merely because one of the members was not eligible, more so when according to Rule 9 (2) of the Maharashtra Scheduled Tribes (Regulation of Issuance and Verification of) Certificate Rules, 2003, the decision of the

Committee is to be by majority.

8. The writ petition is partly allowed. The impugned order is quashed and set aside. The respondent-committee shall immediately issue tribe validity certificate to the petitioner as belonging to 'Mannervarlu' scheduled tribe in the prescribed format without adding anything. The validity shall be subject to the final outcome of the matters which the committee has decided to re-open.

9. The petitioner shall not be entitled to claim equities

(SHAILESH P. BRAHME, J.)

(MANGESH S. PATIL, J.)